

Innovations in Civil Legal Services

Co-Sponsored by

*AARP Legal Counsel for the Elderly,
Legal Services Corporation,
& Management Information Exchange*



**Materials Presented at the
2005 Annual NLADA Conference
Orlando, Florida
November 16-19, 2005**

Moderated by:

Jan Allen May
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AARP Legal Counsel for the
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*For more information on the workshop co-sponsors,
visit the following websites:*



www.aarp.org/lce

AARP Legal Counsel for the Elderly is the primary provider of legal services to older residents of the District of Columbia and develops innovative methods of providing free and low-cost legal and advocacy services.



www.lri.lsc.gov

The LSC Resource Library is committed to raising the standard of practices in legal services programs by encouraging the cross-fertilization of innovative and proven practices among members of the legal services community. Our expectation is that program-to-program networking via the LSC Resource Library will improve the overall quality of legal services. To share your innovative practices with the LSC Resource Library, visit www.lri.lsc.gov.



www.m-i-e.org

MIE's mission is to spark excellence in leadership, management and fundraising in legal services programs serving low-income clients, through training, consulting and publishing activities of the highest quality. Subscribers to MIE's services can use this site to gather and exchange information on the management of legal services programs. The public can use this site to learn about MIE, MIE's training, publication and consulting services.

**Innovations in Civil Legal Services
Thursday, November 17, 2005
10:15 AM to 11:45 AM**

Agenda

10:15 AM – 10:21 AM Introduction by Patricia Pap, Jan Allen May, & Monica Holman Evans

10:21 AM – 10:35 AM Jan Allen May
Program Director
AARP Legal Counsel for the Elderly
601 E Street, NW
Washington, DC 20049
Phone: (202) 434-2164
Fax: (202) 434-6464
jmay@aarp.org

Presentation: Legislation Reform via Legal Services Program Partnering with an AARP State Office and Private Law Firm

10:35 AM – 10:49 AM Cheryl Nolan
Program Counsel
Legal Services Corporation
3333 K Street, NW
Washington, DC 20007
Phone: (202) 295-1561
Fax: (202) 2337-6813
nolanc@lsc.gov

Debra Hansen and Carl Salle
Legal Services of Alabama
207 Montgomery Street
Ste. 1200 Bell Building
Montgomery, AL 36104-3534
Phone: (334)264-1739
Fax: (334)264-1474
dhansen@alsp.org, csalle@alsp.org

Presentation: Disaster Hotline Network

10:49 AM – 11:03 AM Sheila Neville
Staff Attorney
Legal Aid Foundation of Los Angeles
5228 East Whittier Blvd.
Los Angeles, CA 90022
Phone: (213) 640-3929
Fax: (213) 640-3911
sneville@lafla.org

Presentation: Assistance to Victims of Human Trafficking

11:03 AM – 11:17 AM Sylvia B. Caley
Health Law Partnership
975 Johnson Ferry Road
Atlanta, GA 30342
Phone: (404) 785-3708
Fax: (404) 785-4762
sbcaley@atlantalegalaid.org or sbcaley@gsu.edu

Presentation: Health Law Partnership

11:17 AM – 11:31 AM Robert Salzman
Executive Director
Legal Aid Society of Mid-NY, Inc.
255 Genesee Street, 2nd Floor
Utica, NY 13501
Phone: (315) 732-2134, ext. 240
Fax: (315) 732-3202
rsalzman@wnylc.com

Presentation: Fundraising for Central New York Justice Alliance Legal Help Line

11:31 AM – 11:45 AM Patricia Kaplan
New Haven Legal Assistance Association, Inc.
426 State Street
New Haven, CT 06510
Phone: (203) 946-4811
Fax: (203) 498-9271
pkaplan@nhlegal.org

Presentation: Training for Pro Bono Attorneys

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Innovation Description

Program Name: AARP Legal Counsel for the Elderly

Address: 601 E Street NW

Phone: 202-434-2170

Fax: 202-434-6464

Email: jmay@aarp.org

Program Director: Jan Allen May

Contact Person: same

Subject Area: Legislation/tax relief/older people

Project Title: Real Estate Tax Deferral Legislation

- A. **Problem:** Skyrocketing real estate assessments coupled with other problems concerning real property payments by older D.C. residents has been a problem that we have traditionally handled through individual casework. However, the problem is widespread and cries out for a systemic solution.
- B. **Innovation:** We developed the idea of tax deferral legislation whereby an older person could defer payment of real estate taxes up to 50% of the value of the home until the individual owner dies or sells her/his home. We developed the idea, marketed to a large law firm (Steptoe & Johnson) that did extensive research and drafting, and then worked with the AARP DC state office to shepherd through the District of Columbia Council. We conceived of the idea in the spring of 2004. It will become law in the spring of 2006.
- C. **Result:** The law provides necessary relief for older people who have difficulty paying their real estate taxes. This law provides significant relief in that regard. It is an example of the synergy that can be created by combining the issue-spotting ability of legal

services programs, the resources and expertise of a large law firm, and the legislative expertise of an AARP state office.

- D. **Replication:** This type of synergy and project could be replicated in many other settings around the country. The law firm does not have to be particularly large to engage in this type of pro bono activity.
- E. **Materials Available:** Article explaining our approach; article explaining the tax program.

Innovation Description

Program Name: Legal Services of Alabama Disaster Hotline Network

Address: 207 Montgomery Street, Suite 1200 Bell Bldg.,
Montgomery, AL 36104-3534

Phone: (334) 264-1739

Fax: (334) 264-1474

Email: dhansen@alsp.org

Program Director: Debra Hansen

Contact Person: Debra Hansen and Carl Salle

Subject Area: Statewide coordinated intake and hotline system

Project Title: Legal Services of Alabama Disaster Hotline Network

- A. **Problem**: Hurricane Katrina created overwhelming need for disaster relief legal services. Legal services program did not have a centralized intake system at the time of the disaster. LSA scheduled implementation of its statewide, centralized intake system to occur within 2 years. However, LSA's staff did not have experience with creating or operating telephone-based delivery systems.
- B. **Innovation**: LSA's desire to address the critical legal needs of clients affected by Katrina prompted the program to accelerate its timetable for centralization. LSA decided to use the DHN as the first step to transition the entire program to a statewide, central intake and hotline configuration. LSA prioritized disaster relief services and expedited implementation, focusing on using the disaster hotline to enhance existing services and increase efficiencies for applicants. LSA designated key staff to move the project forward. It obtained technical assistance from LSC and experienced legal services hotline programs. Outside specialists acted as long distance project managers and mentors to LSA as it progressed through each step of creating the hotline.

- C. **Result**: LSA successfully implemented its disaster hotline network in record time, reaching full implementation within 13 weeks of Hurricane Katrina, to answer calls statewide Monday through Friday from 8:00 a.m. to 5:00 p.m. It successfully integrated new telephone technology that managed calls via the internet. It opened four new call centers staffed by 13 new hires, who received a comprehensive training of substantive and non-legal skills.
- D. **Replication**: LSA created a project management timeline that demonstrates the steps taken and schedule followed to reach implementation. This can help other programs struggling to move their plans forward and can be replicated without the disaster impetus.
- E. **Materials Available**: LSA DHN Timeline, DHN Objectives and Parameters.

**Staff Attorneys (Disaster Response Center) –
Birmingham, Demopolis, Huntsville, Mobile & Montgomery,
Alabama**

Legal Services Alabama has immediate openings for **Staff Attorneys** for its statewide disaster response call centers in Birmingham, Demopolis, Huntsville, Mobile & Montgomery. The Demopolis call center will be for a one year term only. Call center staff will provide direct services and referrals for people seeking legal assistance with problems that arise after a disaster.

Qualifications: Admission to the Alabama State Bar is required. Must be computer literate and have good interpersonal skills. Must be willing to work flexible hours.

Salary/Benefits: Salary \$42,000. Benefits include medical insurance, paid leave and paid holidays.

To Apply: Send letter of interest with resume, references, and a recent writing sample to:

Alzora Jordan, Human Resources Assistant
Legal Services Alabama
207 Montgomery Street, Suite 1200
Montgomery, AL 36104

Application Deadline: October 21, 2005

Legal Services Alabama, Inc. is an Equal Opportunity Program and Employer.

(Posted October 6, 2005)

Staff Attorney (Disaster Response Center – Spanish Speaking) - Birmingham, Alabama

Legal Services Alabama has an immediate opening for a **Staff Attorney** (Spanish speaking) for its statewide disaster response call center in Birmingham. Call center staff will provide direct services and referrals for people seeking legal assistance with problems that arise after a disaster.

Qualifications: Admission to the Alabama State Bar is required. Must be fluent in Spanish and English. Must be computer literate and have good interpersonal skills. Must be willing to work flexible hours.

Salary/Benefits: Salary \$42,000+ DOE. Benefits include medical insurance, paid leave and paid holidays.

To Apply: Send letter of interest with resume, references, and a recent writing sample to:

Alzora Jordan, Human Resources Assistant
Legal Services Alabama
207 Montgomery Street, Suite 1200
Montgomery, AL 36104

Application Deadline: October 21, 2005

Legal Services Alabama, Inc. is an Equal Opportunity Program and Employer.

(Posted October 6, 2005)

**Paralegals (Disaster Response Center) –
Birmingham, Demopolis, Huntsville, Mobile & Montgomery,
Alabama**

Legal Services Alabama has immediate openings for **Paralegals** for its statewide disaster response call centers in Birmingham, Demopolis, Huntsville, Mobile & Montgomery. The Demopolis call center will be for a one year term only. Call center staff will provide direct services and referrals for people seeking legal assistance with problems that arise after a disaster.

Qualifications: Must be computer literate and have good interpersonal skills. Must be willing to work flexible hours.

Salary/Benefits: Salary \$28,000+ DOE. Benefits include medical insurance, paid leave and paid holidays.

To Apply: Send letter of interest with resume and references to:

Alzora Jordan, Human Resources Assistant
Legal Services Alabama
207 Montgomery Street, Suite 1200
Montgomery, AL 36104

Application Deadline: October 21, 2005

Legal Services Alabama, Inc. is an Equal Opportunity Program and Employer.

(Posted October 6, 2005)

**Intake Specialists (Disaster Response Center) -
Birmingham, Demopolis, Huntsville, Mobile & Montgomery,
Alabama**

Legal Services Alabama has immediate openings for **Intake Specialists** for its statewide disaster response call centers in Birmingham, Demopolis, Huntsville, Mobile & Montgomery. The Demopolis call center will be for a one year term only. Call center staff will provide direct services and referrals for people seeking legal assistance with problems that arise after a disaster.

Qualifications: Must be computer literate and have good interpersonal skills. Must be willing to work flexible hours.

Salary/Benefits: Salary \$24,000+ DOE. Benefits include medical insurance, paid leave and paid holidays.

To Apply: Send letter of interest with resume and references to:

Alzora Jordan, Human Resources Assistant
Legal Services Alabama
207 Montgomery Street, Suite 1200
Montgomery, AL 36104

Application Deadline: October 21, 2005

Legal Services Alabama, Inc. is an Equal Opportunity Program and Employer.

(Posted October 6, 2005)

LSA DISASTER HOTLINE NETWORK
NEW EMPLOYEE ORIENTATION

November 7 -11, 2005

November 7 – 8 Legal Files training at Troy State University Montgomery Campus
7:30 a.m. – 4:00 p.m.

November 9

7:15 – 7:30	Arrive, name tags, refreshment
7:30 – 7:35	Welcome (Debra)
7:35 – 9:30	Operations Orientation (Eileen)
9:30 – 9:45	Break
9:45 - 10:15	Team Builder (Debra)
10:15 – 10:45	Group Questions
10:45 – 11:45	Overview of organization, mission statement and goals (Carl)
11:45 – 12:30	Lunch
12:30 – 1:15	Who are LSA’s clients? LSC focus (Cheryl)
	poverty
	rural/urban dichotomy (map of Alabama with counties)
	demographics
	Group discussion about experience with low income persons ie people receiving public assistance etc.
1:15 – 1:45	Advocacy (Carl) Core cases (Debra)
1:45 – 2:00	Break
2:00 – 3:00	Introduction of Hotline/Statistics/LSC perspective (Carl/Cheryl)
3:00 – 3:15	Objectives and Parameters (Debra)
3:15 – 3:30	AARP Video of Hotline
3:30	Questions and Evaluation

November 10, 2005

7:45 – 8:00 Arrival, refreshments

8:15 – 8:30 Brief discussion of video and Initial telephone script
similarities and differences

8:30 – 10:00 Typical Day in the call center (include eligibility, protocol for referral,
explain VLP, PAI etc.)

10:00 – 10:15 Break

10:15 – 12:00 Continue Typical Day in the call center

12:00 – 12:45 Lunch

12:45 – 1:45 Role play (Cheryl)

1:45 – 2:15 SJIS demonstration/LSA Portal (Debra)

2:15 – 2:30 Break

2:30 – 3:30 Disaster Resources Manual

3:30 Questions and Evaluation
12:30 – 1:00 Referrals to VLP, PAI and other
LSA offices (Debra)

1:00 – 1:30 Protocol (Carl) this may overlap

1:30 – 1:45 Break

1:45 – 3:00 Disaster Resources

November 11, Carl and Cheryl
8:00 – 12:00

Checklist and substantive law scripts and Screener script (need an example of what we want and how it will work) review intake procedures at this point income eligibility, citizen, conflict check, Discuss issues that are not income determined such as seniors in certain counties, housing issues

*** ABA standards of a hotline third party caller etc. and LSC Standard Program letter on hotlines (Debra and Cheryl)

*****Technology and how we will use ie. Online time, schedules (Carl and Debra)

***** Daily Timesheets

**** These are areas we had initially listed but I don't see a time for. We need to decide if we want to include somewhere and modify.

LSA DISASTER HOTLINE NETWORK
NEW EMPLOYEE ORIENTATION
EVALUATION FORM
NOVEMBER 9, 2005

Category	Rating (1-10) 10 = high	Comments
1. Operations Overview		
2. Organization Overview		
3. Understanding of LSA's clients		
4. Advocacy		
5. Introduction of Hotline		
6. Hotline Video		

7. What issues would you like specifically addressed in the next training?

8. Are there areas that were covered today that you feel need to be repeated or clarified? If yes, please list.

Legal Services Alabama, Inc. Disaster Hotline Network

Project Timeline

Dates subject to change

Call Center Staffing pattern

Each office has one: Coordinating Attorney
Paralegal
Intake Screener

DHN Teams

DHN A: Case handling/call flow procedures

Carl Salle and Cheryl Nolan

DHN B: Written materials/legal information

Larry Gardella

Debra Hansen Director - Disaster Hotline Network

	Due Date	Sub-dates	Resp.	Hours	NOTES
Project Planning					
✓ Project Implementation Timeline	9/27/05				
✓ Draft initial timeline			9/26/05 CS/CN		
✓ Circulate to MP for review			9/26/05 CS		
✓ Approve timeline and add any edits			9/26/05 CS		
✓ Revise and send to Cheryl			9/26/05 CS		
Define DHN Parameters and Objectives	10/4/05				
✓ Obtain copy of Bay Area CIU objectives from CN			10/4/05		
✓ Draft Parameters and Objectives			10/4/05 CS/CN		
Send CRT mission and core values to CS and DH			10/7/05 CN		
Review and Approval by MP			10/4/05 CS		
LSA Disaster Hotline Network Intake Volume Report	10/3/05				
✓ Email local offices to send tallies of disaster relief calls			9/26/05 CS		
✓ Send tallies to CN in compilation by email			9/29/05 CS		
✓ Evaluate tallies, compare with project plan			10/4/05 CN		
✓ Telephone call to review tallies			10/4/05 MP/CS/CN		
✓ Schedule periodic review of call volume			11/1/05 CS/DH		
Case Handling Procedures	12/5/05				
✓ Contact advocacy directors and share sample form			LG		
Advocacy Dirs. draft sections and submit to LG			9/28/05 LG		
LG reviews and submits draft sections			10/5/05 LG		
			10/7/05 LG/CS		

	Due Date	Sub-dates	Resp.	Hours	NOTES
Meet with supervising attorneys on case handling protocols			11/2/05 CS/DH		
Review case handling procedures with LG			11/30/05 CS/DH/LG		
Review draft procedures /protocols and revise by telephone			12/5/05 CS/CN		
Staff Scheduling	10/10/05				
✓ Email sample phone schedules			9/28/05 CN		
✓ Draft hours of operation and coverage slots			10/18/05 DH		
Review draft phone schedule			11/9/05 CN/DH		
Review with MP			11/11/05 CS/DH		
Resource Development for Call Center			CJ (grants administrator)		
✓ Mtg to discuss financial requirements for call center project	10/5/05				
Disaster Relief funding					
Statewide Call Center funding					
Technology/Phone System					
Office/Room Sites					
✓ Survey Cumberland offices and coordinate w/tech plan (below)			10/4/05 CS/WG		
Review MOU with Cumberland School of Law			11/11/05 CS/WG		
✓ Confirm dates for completing retrofitting of office sites			10/21/05 WG/CS		
✓ Contact Carolyn Gaines-Varner for office site			9/30/05 CS		
✓ Visit/Survey Huntsville and Mobile sites			10/19/05 CS/WG		
Telephones	10/19/05				
✓ Contact Bell South to request their timeline			9/27/05 WG		
✓ Obtain Bell South timeline for telephone installation			10/28/05 WG/CS		
✓ Provide list of comp equip necessary for 2 locations			10/5/05 WG/CS		
✓ Review and approval with MP			10/6/05 CS/MP/WG		
✓ Order equipment and phone lines			10/7/05 WG		
Installation (completed at all sites)			11/9/05 WG		
✓ Visit Asterisk website and review product features			10/14/05 DH/CS/CN		
✓ Visit call billing manager URL for report features			10/14/05 DH/CS/CN		

	Due Date	Sub-dates	Resp.	Hours	NOTES
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Call Centers (4) Activated	11/14/05				
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Huntsville, Birmingham (Cumberland), Montgomery, Mobile

Legal Files Case Management Database	11/10/05				
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Train management - updating and reporting

Train advocates (2 day trg in 2 sessions)

Incorporate scripts, checklists

11/9/05

11/7-8&10-11/05 CS & DH

TBD

Staffing

Hiring Preparations

- | | | | |
|--|-------------------|----------|--|
| ✓ Finalize initial staffing needs (4 offices) | 9/28/05 | CS/MP | |
| ✓ Develop and Approve Statewide Director Job Description | 9/26/05 | CS/MP | |
| ✓ Develop/Approve Call Center Supervising Attorney Job Description | 10/4/05 | CS/MP | |
| ✓ Develop/Approve Call Center Paralegal Job Description | 10/4/05 | CS/MP | |
| ✓ Develop/Approve Call Center Admin Assistant Job Description | 10/4/05 | CS/MP | |
| ✓ Send job descriptions for publication | 10/4/05 | CS | |
| ✓ Emergency appointment of statewide director | 10/10/05 | CS/MP | |
| ✓ Update timeline for hiring | 10/3/05 | CS/EH | |
| ✓ Draft interview questions for call center staff | 10/21/05 | CN/DH/CS | |
| ✓ Interview applicants | 10/27 to 10/28/05 | DH/CS | |
| ✓ Make offers to applicants | 10/31/05 | DH/CS | |

statewide dependant

Final Staffing

- | | | | |
|--|----------|----------|--|
| ✓ Finalize hiring-applicants accept offers | 10/31/05 | CS/DH/MP | |
| ✓ Review additional staff needs (admin, case closer) | 10/31/05 | CS/DH/MP | |

Staff Orientation

- | | | | |
|---|------------------|----------|--|
| ✓ Develop agenda and organize materials for staff orientation | 10/21/05 | CN/DH/CS | |
| Incorporate telephone training materials | 10/25/05 | WG/DH/CS | |
| Staff orientation | 11/9 to 11/11/05 | DH/CJ/CS | |

Written Materials

Checklists

- | | | | |
|---|----------|-------|--|
| ✓ Gather existing materials (internal and ext.) | 10/26/05 | CS/CN | |
|---|----------|-------|--|

	Due Date	Sub-dates	Resp.	Hours	NOTES
✓ Identify most common legal problems		11/7-8/2005	DH/CS		
Review checklists		11/30/05	DH/CS		
Finalize checklists		12/5/05	DH/CS		
Add checklists to Legal Files		12/31/05			
Scripts	11/7/05				
✓ Gather existing materials (internal and ext.)		10/5/05	CS/CN		
Status report for A.D.s		10/21/05	LG/A.D.s		
Revise existing samples of scripts		11/30/05	LG/A.D.s		
Share with DHN Director for staff orientation		11/7/05	LG/A.D.s		
Add scripts on most common disaster lgl probs to Legal Files		12/31/05			
Advice/Closing Letters					
✓ Contact South Carolina LATIS for samples	10/31/05		CS		
Create advice letters for completed scripts call center	12/5/05		Coord Attys		Advice letters will be an ongoing project for DHN.
✓ Integrate brochures and mailers from Comm Ed Committee	11/9-10/2005		DH/LG		
Referral List					
✓ Disaster Relief - updated daily		9/26/05	CC		
Statewide Referral		TBD	DH		Not scheduled until 2006 after hotline goes statewide
Volunteers					
✓ Develop plan for volunteer recruitment		11/1/05	DH		
Implement recruitment plan		TBD	DH		
All Offices, Full Hours for Disaster Relief					
Go Live 8am-5pm M-F		11/14/05			
Go Live Extended Hours		1/2/05			
Advertising of DHN		12/1/05			

Innovation Description

Program Name: Legal Aid Foundation of Los Angeles

Address: 5228 Whittier Blvd., Los Angeles, CA 90022

Phone: 213-640-3929

Fax: 213-640-3911

Email: sneville@lafla.org

Program Director: Bruce Iwasaki

Contact Person: Sheila Neville

Subject Area: Human Trafficking

Project Title: -STOP the Traffic: Slavery Training & Outreach
Project - Legal Assistance to Trafficking Victims Project

A. **Problem:** A relatively low number of the estimated 15,000-17,000 trafficking victims who enter the U.S. each year have been identified since the passage of the Trafficking Victims Protection Act of 2000. Legal services providers, law enforcement agencies and social service programs that come into contact with victims may not be aware of how to assess a human trafficking case or how to identify resources available to victims and their family members.

B. **Innovation:** In 2002 LAFLA initiated a program to provide nationwide training and technical assistance to a wide range of professionals, including legal services providers, on how to identify and assist victims of human trafficking. At the same time, LAFLA established a program to provide immigration representation to trafficking survivors in the greater Los Angeles area. The staff for these programs are based in LAFLA's Immigration and Asian Pacific Islander Units.

LAFLA staff that provide training and direct services work together as a team to evaluate and prepare cases, respond to

technical assistance requests, write articles and outreach materials, speak at conferences, and serve on a local law enforcement task force on human trafficking.

A critical component of these projects has been close collaboration with federal and local law enforcement agencies and social service providers. LAFLA assists victims in reporting trafficking crimes to law enforcement and refers them to local social service agencies for shelter, medical care, counseling and case management services.

- C. **Result:** LAFLA has provided training on human trafficking to over 1,000 persons in twenty states and obtained special trafficking visas for over one 125 human trafficking survivors and their family members. As a result of close collaboration with law enforcement, LAFLA plays a key role in providing regular training to local law enforcement and in developing a local law enforcement plan to identify trafficking victims.
- D. **Replication:** LAFLA can provide training to legal services offices on how to incorporate human trafficking awareness—identification, outreach and representation—into their programs.
- E. **Materials Available:** Go to the LAFLA website, <http://www.lafla.org/clientservices/specialprojects/traffic.asp>, to download the following documents:

A Guide to Legal Advocates Providing Services to Victims of Human Trafficking
Civil Litigation on Behalf of Victims of Human Trafficking
Human Trafficking: A Guide to U.S. Law
Three Tales of Slavery in the USA (an outreach comic book in various languages)

The Law of Human Trafficking: What Legal Aid Providers Should Know

By Sheila Neville and Susana Martinez

My name is Mali.¹ I was born in a small village in Thailand. I was one of twelve children and was very poor. I was able to go to school only up to the second grade because I had to start working to help support my family. I grew up and had two children. One day a woman from my village told me that her cousin Kanya, who lived in the United States, needed workers for her restaurant. Kanya would let me live at her house while I worked for her. I was told that Kanya would pay me very well and would take care of all expenses and necessary arrangements such as getting a passport, visa, and work permit for me. I was poor and could barely survive in Thailand, so I was very excited about this job opportunity and I agreed to meet with Kanya.

Kanya was a wealthy woman who was very nice to me and appeared to care about me and to want to help me. She told me that she wanted me to work for her for a period of two years and that she would pay me. I agreed, and Kanya obtained a passport and visa for me to enter the United States. She also made the necessary travel arrangements.

It was very difficult for me to leave my children but the opportunity to provide a better life for them made my decision a little bit easier. I traveled with Kanya to the United States. Immediately upon our arrival, Kanya took my passport and took me to her house in a quiet suburb of Los Angeles. The suburb was filled with upper middle class homes with manicured lawns. Kanya's attitude toward me changed.

She was no longer nice to me. As soon as I stepped through the door, she ordered me to clean her house. When I asked about the job at the restaurant, Kanya told me that I would begin working there the next day.

From then on, I had to get up at 6:00 a.m. every day to do housework. I had to clean the house and pool, wash the cars, mow the lawn, and cook. After I completed the housework, Kanya would drive me to her restaurant at about 10:00 a.m., where I would work until 10:00 p.m. or midnight. At the restaurant, I prepared and cooked food, washed dishes, and served customers. After closing, I had to clean the restaurant and the kitchen. Kanya would then drive me back to her house where I would have to cook for her and sometimes give her a massage. If I objected or said that I was tired, Kanya screamed and cursed at me and told me that she would reduce my pay because I was lazy. I had to work up to eighteen hours every day of the week.



Sheila Neville
Staff Attorney

Susana Martinez
Staff Attorney

Legal Aid Foundation of Los Angeles
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smartinez@lafila.org

¹Mali's story is a composite of the stories of several trafficking survivors represented by the Legal Aid Foundation of Los Angeles.

When Kanya had company, I was forced to serve her and her guests on my knees. If I made a mistake or did not do exactly as I was told, Kanya screamed at me and humiliated me, even in front of others. Sometimes Kanya would pinch and slap me.

When I asked Kanya about getting paid, she said that it had cost her a lot of money in travel expenses and visa costs to get me to the United States and that I had to pay her back for these expenses. She said that once I paid her back, then I would get paid. I was shocked and disappointed at the situation that I found myself in, but what could I do? I did not know anyone else in the United States and I did not speak English. I wanted to go back to Thailand, but Kanya told me that first I needed to repay the money that she had spent getting me to the United States. She told me that if I tried to leave, she would find me and kill me and that my family back home would also be harmed.

I believed Kanya's threats. After all, she was very wealthy and knew where my family lived. She said that because I was in the United States illegally, no one would notice if I were missing. Kanya also threatened to kill me if I caused her any trouble. She told me that if I went outside, she would have me arrested and deported. She also told me that in Thailand it was easy to have a person killed. I had no choice but to do as she said.

Mali was one of nine Thai women that Kanya had working at her restaurant under these oppressive conditions. Like Mali, the other women were also driven to and from the restaurant every day and, despite Kanya's promise of paid employment, were refused payment until they repaid Kanya for expenses. The women were prohibited from speaking to each other or any people at the restaurant, going out of the house by themselves, using the telephone, or receiving mail.

What happened to Mali and the other women in Kanya's restaurant is called

human trafficking: the use of force, fraud, or coercion for either sexual or labor exploitation. Legal aid providers should become familiar with the workings of human trafficking and acquaint themselves with the legal tools that may be used to help its victims. In this article we introduce the institution of human trafficking by describing its pervasiveness and explaining how victims become modern-day slaves. Next we address the historically inappropriate treatment of victims in the United States. We then discuss a recently enacted federal statute, the Trafficking Victims Protection Act of 2000, and its amendments, the Trafficking Victims Protection Reauthorization Act of 2003, that combat human trafficking in the United States by punishing traffickers, protecting victims, and providing benefits such as victim services, welfare benefits, legal assistance, and immigration relief.² Finally we explain how legal aid providers are uniquely positioned to identify victims of human trafficking and help them take advantage of statutes for their protection.

I. An Introduction to Human Trafficking

Mali's experience is a somewhat typical human trafficking scenario where a poor person is induced into taking a job that appears to be a great opportunity only to find herself in a situation where she is being exploited and threatened. Victims commonly are promised one job and then forced or coerced into another, such as prostitution, or forced to work without pay.³ Victims usually find themselves in situations from which escape is very difficult since they are often taken to foreign countries where they are isolated by language and cultural barriers and are ignorant of the law and their rights.

Another common trafficking scenario involves victims who consent to a particular job, possibly in the commercial sex

²Trafficking Victims Protection Act of 2000, 22 U.S.C. §§ 7101–7110, amended by Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193, 117 Stat. 2875.

³See generally GLOBAL SURVIVAL NETWORK, CRIME & SERVITUDE: AN EXPOSE OF THE TRAFFIC IN WOMEN FOR PROSTITUTION FROM THE NEWLY INDEPENDENT STATES 14 (1997) (describing the Global Survival Network's undercover efforts to expose false employment agencies that offer jobs through newspaper ads but then force women into prostitution).

trade, but are deceived about the working conditions.⁴ Victims often are given false promises of jobs as waitresses, nannies, models, factory workers, or exotic dancers in the United States with high wages and good working conditions. Victims in such situation are aware of the nature of the job but unaware of the abusive working conditions. They arrive in the United States to find that the amount of debt or the terms of repayment have changed. They are charged inflated amounts for basic necessities at usurious interest rates, are confined, or both.⁵

According to U.S. government estimates, about 18,000 to 20,000 men, women, and children are trafficked into the United States per year, and 800,000 to 900,000 people are trafficked worldwide.⁶ Traffickers use a variety of methods to find victims. Employment, travel, model, or matchmaking agencies are used to lure victims. Friends and acquaintances recruit victims through word of mouth.⁷

Once victims are in the hands of traffickers, the traffickers use force, fraud, or coercion to make their victims work. They confiscate and retain victims' passports and travel documents, restrict the victims' freedom, withhold wages until victims pay off their debts, keep victims under surveillance by security guards, and use threats of violence or actual violence against the victims, their families, or both.⁸ Traffickers also use the victims' fears of arrest and deportation against them. They instill a fear of law

enforcement by telling victims that, because they are in the country illegally, they have no rights and will be arrested or deported by the authorities. The fear of deportation is very powerful because to be returned to their home country may be extremely shameful for victims. It also may be dangerous because traffickers may seek out the victims who return home and retaliate against them.⁹

Isolation is another way that traffickers maintain control of their victims. In many cases, victims must live and work at one location. This is usually the case for persons made to work as maids, nannies, and domestic workers. Making the victim live and work at one location ensures that she does not have the opportunity to interact with others and seek help.¹⁰ Other coercive techniques include denying victims medical treatment when needed and, in particularly egregious situations, subjecting victims to extreme mental and physical abuse, including rape, forced abortions, and beatings.¹¹

Trafficking in persons occurs for many reasons. First, it is a highly profitable criminal activity for traffickers. Trafficking yields steady profits from forced labor and sexual exploitation over a long period.¹² For example, in two prominent cases, Thai women trafficked into brothels in New York grossed approximately \$1.5 million for their traffickers in fifteen months, and a group of hearing-impaired Mexicans who peddled trinkets on New York streets made \$8 million for their traffickers over four

⁴AMY O'NEILL RICHARD, INTERNATIONAL TRAFFICKING IN WOMEN TO THE UNITED STATES: A CONTEMPORARY MANIFESTATION OF SLAVERY AND ORGANIZED CRIME 25 (1999), available at www.odci.gov/csi/monograph/women/trafficking.pdf.

⁵*Id.* at 5, 25.

⁶U.S. DEP'T OF JUSTICE, ASSESSMENT OF U.S. ACTIVITIES TO COMBAT TRAFFICKING IN PERSONS 1 (2003), available at www.usdoj.gov/crt/crim/wetf/us_assessment.pdf.

⁷O'NEILL RICHARD, *supra* note 4, at 5.

⁸*Id.*

⁹*Id.*

¹⁰*Id.*

¹¹*Id.*

¹²*Id.* at 19–20.

and a half years.¹³ Trafficking in persons is organized crime's third most profitable trafficking activity after drug and gun trafficking.¹⁴

Because traffickers maximize their profits by keeping their costs low, trafficking is profitable. Costs are kept low by not paying the victims or paying them very little because of their debt repayment obligation.¹⁵ Victims' debt may include the cost of transportation to the new country and travel documents (whether legitimate or falsified), the price their new owner paid for them, rent, and food.¹⁶ Victims are told that they will be let go once their debt is repaid, but their wages may never be credited against their debt.¹⁷ By not accurately crediting the victims' wages against their debt, traffickers keep their victims generating a steady flow of income for them. To keep costs low, victims may be housed in unsanitary and crowded living conditions.¹⁸ Victims are usually forced to work long hours, sometimes every day, for little or no pay.¹⁹

Another reason that trafficking is highly profitable is that victims can be used over and over. For example, in the sex

industry, victims not only are forced to service many customers but also can be sold to other traffickers. People become "expendable, reusable, and resellable" commodities.²⁰ Trafficking is also a lucrative criminal enterprise because the risk of prosecution is low. Until a few years ago, traffickers who were operating in the United States and were prosecuted faced low penalties. For example, the maximum sentence for sale into involuntary servitude was only ten years, while the maximum sentence for distributing a kilo of heroin was life imprisonment.²¹

Besides being a highly profitable, relatively low-risk venture, trafficking flourishes because of an unfilled high demand for cheap labor. Trafficking victims are found working in restaurants, garment factories, and the agricultural industry, and in homes as maids, nannies, and domestic servants.

Just as there is a demand for cheap labor, there are factors that affect the supply of such labor. Economic, political, and social conditions around the world make people desperate to find a way to support themselves and their families and make

¹³*Id.*

¹⁴Kelly E. Hyland, *Protecting Human Victims of Trafficking: An American Framework*, 16 BERKELEY WOMEN'S L.J. 29, 37–38 (2001) (citing *International People Trafficking: Hearings Before the Near Eastern and South Asian Affairs Subcomm. of the Senate Foreign Relations Comm.*, 106th Cong. (Feb. 22, 2000) (prepared statement of Frank E. Loy, Undersecretary of State for Global Affairs)).

¹⁵See, e.g., ASIA WATCH WOMEN'S RIGHTS PROJECT, HUMAN RIGHTS WATCH, A MODERN FORM OF SLAVERY: TRAFFICKING OF BURMESE WOMEN AND GIRLS INTO BROTHELS IN THAILAND 39–40 (1993) (discussing one woman's debt bondage while being trafficked through brothels). See generally Trafficking Victims Protection Act § 103(4), 22 U.S.C. § 7102(4) (2000) (defining debt bondage as the status or condition of a debtor arising from a pledge by the debtor of debtor's personal services or of those of a person under debtor's control as a security for debt if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined).

¹⁶O'NEILL RICHARD, *supra* note 4, at 19.

¹⁷*Id.* at 39–40 (recounting one victim's experience in a brothel where women did not know the details of their debts—indicating that no accounting was likely done).

¹⁸See, e.g., STEVEN R. GLASTER & MELANIE E. ORNANT, GLOBAL SURVIVAL NETWORK, TRAPPED: HUMAN TRAFFICKING FOR FORCED LABOR IN THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS (A U.S. TERRITORY) 20 (1999) (stating that fourteen women shared one room and one toilet in barracks for garment workers).

¹⁹*Id.* at 8, 15 (stating that domestic servants worked sixteen hours every day without breaks and factory guards went months without pay); O'NEILL RICHARD, *supra* note 4, at 28 (describing an Ethiopian woman who worked as a domestic servant seven days a week, fifteen hours a day, for under three cents per hour and a Filipino woman who worked as a nanny sixteen hours a day for forty-one cents per hour).

²⁰O'NEILL RICHARD, *supra* note 4, at 1.

²¹*Id.* at 33.

them vulnerable to the false promises of traffickers. Precisely because such people are vulnerable, they are the traffickers' targets.

Women, children, and the poor are the traffickers' main targets. Poverty, illiteracy, and the low social status of women and girls, along with the stereotype of women as "property, commodities, servants, and sexual objects" make them vulnerable to trafficking.²² Children, who are also easy prey for traffickers, are kidnapped or bought from their parents and forced to work in rug factories in India, as camel jockeys in the Middle East, and as prostitutes in Asia.²³ Men have also been tricked into accepting jobs in the United States only to find that they are forced to work under slavlike conditions. For example, in 2002 three men in Florida were convicted of trafficking in slaves, extortion, and possession of firearms in connection with holding 700 men against their will and forcing them to work picking oranges.²⁴ Whether the victims of human trafficking are men, women, or children, most of them in common are people in poverty and have limited prospects for jobs and economic opportunities in their home countries.

Immigration laws around the world also affect human trafficking. Many countries limit the number of legal immigrants who can enter their borders. The inability of people to migrate freely to places where there are opportunities to make a better living create conditions ripe for human trafficking.²⁵ This is true of the United States as well. As entering the United States becomes more and more difficult, more and more people are relying on smugglers to cross

the border. Since smugglers are charging higher and higher rates, people become more vulnerable to a trafficking situation such as debt bondage.²⁶

II. Historical Treatment of Human Trafficking Victims in the United States

Law enforcement officials until recently had little understanding of the crime of human trafficking. They treated victims poorly and inappropriately—a result of focusing on victims' illegal immigration status and not recognizing the situation as a human rights issue.²⁷ Victims were afraid to let law enforcement know what was really happening, and law enforcement officials were ignorant of the crime of human trafficking and did not know to ask persons whom they arrested appropriate questions to ascertain whether they were victims.

Victims were treated as if they were "just another illegal immigrant," detained by immigration officials, and deported. For example, in the late 1990s a number of Asian women who had been trafficked into the United States for prostitution were deported immediately and were unable to recover damages or participate in the prosecution of their traffickers.²⁸ In other instances, victims have been treated as criminals and jailed because they were found engaged in some crime, such as in cases where victims were being forced to work as prostitutes.

When victims were not correctly identified, they would eventually be deported to their home countries, where they ran the risk of retaliation by traffickers or ostracization by their families. Moreover, when victims were not correctly identified, they

²²*Id.*

²³See generally Andrew Cockburn, *21st Century Slaves*, NAT'L GEOGRAPHIC, Sept. 2003, at 2.

²⁴*Id.* at 18.

²⁵Tal Raviv, *International Trafficking in Persons: A Focus on Women and Children—The Current Situation and the Recent International Legal Response*, 9 CARDOZO WOMEN'S L.J. 659, 661 (2003).

²⁶Cockburn, *supra* note 23, at 9–10.

²⁷O'NEILL RICHARD, *supra* note 4, at 39.

²⁸*Id.* at 40.

would not receive victim services such as medical care, legal assistance, or protection from their traffickers.

Because of the strict limits imposed on immigrant access to government benefits under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, undocumented victims were disqualified from most federally funded benefits such as Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), unrestricted Medicaid, food stamps, and public housing.²⁹ The lack of a lawful immigration status also disqualified many victims from legal representation by agencies funded by the Legal Services Corporation (LSC).³⁰

The criminal and civil remedies available to victims of human trafficking were also limited since no laws were specifically designed to punish traffickers.³¹ Traffickers faced low risk of prosecution, and when prosecution did occur, sentences were low.

The only immigration relief available to many victims of human trafficking was the S visa, the use of which was limited due to its specific requirements.³² For example, because the S visa required that the victim possess critical and reliable information that is essential to a criminal case, victims could not obtain this visa based on a civil case against their traffickers.³³ Then, too, only 200 S visas were and are available each year.

III. The Trafficking Victims Protection Act of 2000 and Its Amendments

The human rights of trafficked persons shall be at the center of all

*efforts to prevent and combat trafficking and to protect, assist and provide redress to victims.*³⁴

The Trafficking Victims Protection Act of 2000 is the most comprehensive anti-trafficking legislation in the world. It increases criminal penalties for traffickers, dedicates resources to the prevention of trafficking, and, perhaps most important, offers benefits and protection based on the recognition of trafficking as a human rights abuse. Unfortunately, more than three years after its passage, only a fraction of the victims estimated to qualify for the Act's benefits and protection have been identified. Legal aid programs in urban and rural communities throughout the United States uniquely can contribute to nationwide efforts to identify and assist victims of human trafficking.

A. Enactment of the Trafficking Victims Protection Act

The Trafficking Victims Protection Act's passage was preceded by the highly publicized discovery of modern-day slave operations in California and New York and coincided with the first successful international efforts to frame trafficking as a human rights issue.

In the predawn hours of August 2, 1995, state and federal law enforcement authorities in El Monte, California, raided an apartment building that served as a slave labor compound. Some of the seventy-two Thai workers whom they found in the building had been held captive for up to seven years. Enclosed by a razor-wire fence and unable to communicate with their families, the workers were forced to sew garments for U.S.

²⁹8 U.S.C. §§ 1601, 1611–1612 (1996).

³⁰Omnibus Consolidated Rescissions and Appropriations Act of 1996, § 504(a)(11), Pub. L. No. 104-134, 110 Stat. 1321, 1321–54.

³¹See Trafficking Victims Protection Act § 102(b)(14), 22 U.S.C. § 7101(b)(14) (2000) (stating that existing laws do not cover offenses involved in trafficking and that enforcement and punishment do not reflect the seriousness of the crime).

³²O'NEILL RICHARD, *supra* note 4, at 41.

³³Immigration and Nationality Act § 101(a)(15)(S)(i), 8 U.S.C. § 1101(a)(15)(S)(i) (2000).

³⁴UNITED NATIONS ECON. & SOC. COUNCIL, RECOMMENDED PRINCIPLES AND GUIDELINES ON HUMAN RIGHTS AND HUMAN TRAFFICKING: REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS TO THE ECONOMIC AND SOCIAL COUNCIL, Addendum at 3 (2002).

manufacturers and retailers six days a week for up to twenty hours a day.³⁵ The traffickers earned approximately \$8 million dollars from the operation.³⁶

In 1997 the claims of four deaf Mexican men led New York City police to the discovery of dozens of deaf Mexicans who were enslaved and forced to peddle trinkets in subway stations for eighteen hours a day and almost no pay. Their traffickers had beaten, physically restrained, and tortured them.³⁷

Motivated by the discovery of these modern-day slave operations “at the very door of the United States,” Sen. Paul Wellstone and Reps. Louise McIntosh Slaughter, Sam Gejdenson, and Christopher Smith began introducing antitrafficking bills in the House and Senate in 1999. By the fall of 2000, a bill that reconciled the House and Senate versions of the legislation passed both houses of Congress. On October 28, 2000, Pres. Bill Clinton signed the Trafficking Victims Protection Act.³⁸ On December 19, 2003, Pres. George W. Bush signed into law the Trafficking Victims Protection Reauthorization Act, which extended funding for the implementation of the Trafficking Victims Protection Act through fiscal year 2005 and enhanced certain of its provisions.³⁹

Less than two months after the passage of the Trafficking Victims Protection Act, eighty nations signed the *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* in Palermo, Italy.⁴⁰ While security and sovereignty issues motivated the drafting of the U.N. trafficking protocol, its proponents are credited with making “significant progress in constructing a new identity for trafficked persons as victims of severe human rights abuse, rather than as criminals and illegal migrants.”⁴¹ The Trafficking Victims Protection Act explicitly recognizes the U.N. trafficking protocol’s new perspective on trafficking victims: “The United States and the international community agree that trafficking in persons involves grave violations of human rights and is a matter of pressing international concern.”⁴²

The Trafficking Victims Protection Act’s provision of benefits and protection for trafficking victims and their families—enhanced by the amendments of the Reauthorization Act—further reflects this emerging human rights perspective.⁴³

B. New Criminal and Civil Penalties

The Trafficking Victims Protection Act increases the maximum sentence for

³⁵JULIE SU, SWEATSHOP WATCH, EL MONTE THAI GARMENT WORKERS: SLAVE SWEATSHOPS (2001), available at www.sweatshop-watch.org/swatch/campaigns/elmonte.html.

³⁶O’NEILL RICHARD, *supra* note 4, at 19.

³⁷*Deaf Mexicans Held in Serfdom by Traffickers in New York*, TRAFFICKING IN MIGRANTS (Int’l Org. for Migration, Geneva, Switzerland), Sept. 1997, at 3, available at www.iom.int/documents/publication/en/tm16.pdf.

³⁸Aiko Joshi, *The Face of Human Trafficking*, 13 HASTINGS WOMEN’S L.J. 31, 39–40 (Winter 2002). Technically the law enacted by Pres. Bill Clinton’s signing was the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464. This Act was organized into three divisions: the Trafficking Victims Protection Act (codified at 22 U.S.C. §§ 7101–7110), the Violence Against Women Act of 2000 (codified in scattered sections of 8, 18, 20, 28, and 42 U.S.C.), and miscellaneous provisions.

³⁹Trafficking Victims Protection Reauthorization Act, Pub. L. No. 108-193, 117 Stat. 2875 (2003); see *President Signs Trafficking Victims Protection Reauthorization Measure*, 81 INTERPRETER RELEASES, Jan. 12, 2004, at 42.

⁴⁰Leroy G. Potts Jr., *Global Trafficking in Human Beings: Assessing the Success of the United Nations Protocol to Prevent Trafficking in Persons*, 35 GEO. WASH. INT’L L. REV. 227, 236 (2003).

⁴¹Joan Fitzpatrick, *Trafficking as a Human Rights Violation: The Complex Intersection of Legal Frameworks for Conceptualizing and Combating Trafficking*, 24 MICH. J. INT’L L., 1143, 1151 (2003).

⁴²Trafficking Victims Protection Act § 102(23), 22 U.S.C. § 7101(b)(23) (2000).

⁴³*Id.* § 107, 22 U.S.C. § 7105; Trafficking Victims Protection Reauthorization Act § 4, 117 Stat. at 2877–79.

involuntary servitude and newly criminalizes forced labor; trafficking into involuntary servitude, peonage, slavery, or forced labor; sex trafficking; and so-called document servitude—the withholding of travel or identification documents in furtherance of a trafficking crime.⁴⁴ The Act also expands the definition of coercion in these new crimes to include psychological coercion and provides for mandatory victim restitution.⁴⁵ The Reauthorization Act provides victims with a civil remedy against their traffickers and adds trafficking offenses to the list of racketeering activities for purposes of the federal Racketeer Influenced and Corrupt Organizations statute.⁴⁶

On a grander scale, the Trafficking Victims Protection Act creates penalties for nations that are not making significant efforts to fight human trafficking. The United States is attempting to address international factors—such as poverty, lax law enforcement, and social and economic conditions—that contribute to human trafficking. As part of its strategy to combat human trafficking, the United States compiles an annual report on trafficking in persons; the report judges other countries on whether they are complying with a set of minimum standards to eliminate human trafficking.⁴⁷ The United States places countries into one of three tiers: the first tier indicate full compliance; the second, significant effort to come into compliance; and the third, noncompliance with a corresponding lack of significant effort to come into compliance. The United States sanctions countries that

fall into the third tier by withholding nonhumanitarian, non-trade-related assistance.⁴⁸

C. Definition of Human Trafficking

Central to any discussion of the benefits and protection that the Trafficking Victims Protection Act provides to trafficked persons is the statute's definition of human trafficking. The Act states that "severe forms of trafficking in persons" include:

(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.⁴⁹

For any legal advocate to be able to identify a trafficking victim, this definition must be distinguished from that of immigrant smuggling, in which the smuggler arranges for the illegal entry of a noncitizen into the United States for any reason.⁵⁰ By contrast, human trafficking, as defined by the Trafficking Victims Protection Act's regulations, involves a "particular means" (force, fraud, or coercion, with the exception of minors induced to engage in commercial sex) and a "particular end" (forced labor or forced prostitution).⁵¹

⁴⁴18 U.S.C. §§ 1581(a), 1583–1584, 1589–1592 (2000).

⁴⁵Trafficking Victims Protection Act § 103(2), 22 U.S.C. § 7102(2); 18 U.S.C. § 1593.

⁴⁶Trafficking Victims Protection Reauthorization Act §§ 4(a)(4)(A), 5(b), Pub. L. No. 108-193, 117 Stat. 2875, 2878–79 (2003).

⁴⁷These standards are set forth in Trafficking Victims Protection Act § 108, 22 U.S.C. § 7106.

⁴⁸*Id.* § 110, 22 U.S.C. § 7107.

⁴⁹*Id.* § 103(8), 22 U.S.C. § 7102(8).

⁵⁰New Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for "T" Nonimmigrant Status, 67 Fed. Reg. 4784, 4787 (Jan. 31, 2002) (to be codified at 8 C.F.R. pts. 103, 212, 214, 274a, 299).

⁵¹*Id.* at 4786–87.

Unlike immigrant smuggling, human trafficking does not necessarily involve crossing an international border since a smuggled migrant may become a trafficking victim after arrival in the United States. Individuals who are voluntarily smuggled into the United States may become victims of a severe form of trafficking in persons if, for example, the smuggler uses threats of serious harm or physical restraint to force the individual into involuntary servitude, peonage, debt bondage, or slavery after arrival. Federal law prohibits forced labor regardless of the victim's initial consent to work.⁵²

One of the most crucial elements of the Trafficking Victims Protection Act's trafficking definition is coercion. To fill a gap left by the U.S. Supreme Court's narrow interpretation of the federal involuntary servitude statute, the Act defines coercion to encompass more than physical force or the threatened use of such force.⁵³ Under the Act, "coercion" includes

(A) threats of serious harm to or physical restraint against any person;

(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(C) the abuse or threatened abuse of the legal process.⁵⁴

The statute's legislative history indicates that Congress wanted to address the tactics of modern traffickers who prey on the vulnerabilities of their victims. In its

Conference Report, Congress cited the "increasingly common" cases of domestic servitude where victims are kept in service through subtle means that lead them to believe that serious harm will result to them or to others if they leave.⁵⁵

D. Benefits and Protection

Consistent with its characterization of trafficking as an abuse of human rights, the Trafficking Victims Protection Act and its regulations provide for trafficked persons an array of benefits and protection, including victim services, government benefits, LSC-funded legal assistance, and immigration relief. However, victim contact with law enforcement is a necessary condition for access to most of these benefits and protection.

1. Victim Services

Trafficked persons are eligible to receive such protection and services generally available under federal law to victims of federal crimes as the right to notification of the status of the criminal case against the suspected offender, scheduling of court proceedings, and the offender's release from custody.⁵⁶ The Trafficking Victims Protection Act's regulations provide that victim services to trafficked persons should be tailored to meet their needs: "[They] are often particularly vulnerable, because they have experienced physical and psychological trauma, are far from home without nearby friends or family, have limited or no English proficiency, and come from cultural traditions different from those in the United States."⁵⁷ In recognition of these needs, the Act enumerates protection and services for trafficked persons, whether or not they are in federal custody.

⁵²*Id.* at 4787.

⁵³See Trafficking Victims Protection Act § 102(b)(13), 22 U.S.C. § 7101(b)(13) (2000) (discussing *United States v. Kozminksi*, 487 U.S. 931 (1988)).

⁵⁴*Id.* § 103(2), 22 U.S.C. § 7102(2).

⁵⁵146 CONG. REC. H8855-02, H8881 (Oct. 5, 2000) (conference report and statement of Rep. Christopher Smith).

⁵⁶Protection and Assistance for Victims of Trafficking, 66 Fed. Reg. 38514, 38515 (July 24, 2001) (to be codified at 28 C.F.R. pt. 1100).

⁵⁷*Id.* at 38516.

Alternatives to formal detention of trafficking victims “should be considered in every case.”⁵⁸ If detained, victims should be held in facilities appropriate to their status as crime victims and with protection from intimidation and harassment.⁵⁹ Trafficking victims in federal custody should also receive necessary medical care, including mental health counseling for trauma and optional testing for HIV (human immunodeficiency virus) and other sexually transmitted diseases in cases involving sexual assault or sex trafficking.⁶⁰

Federal law enforcement agencies are also charged with protecting trafficking victims, in custody or not, from “harm and intimidation.”⁶¹ If the victim’s safety is at risk, including danger of recapture by the trafficker, federal law enforcement should protect the trafficking victim and her family members and ensure that their names and other identifying information are not disclosed to the public.⁶²

The federal government must give all victims information about their rights and the services—including legal services, victim service organizations, protection against threats and intimidation, privacy and confidentiality rights, victim compensation programs, the right to restitution, and the availability of medical services—available to them.⁶³ If the victim cannot communicate in English, the federal agency must ensure “reason-

able access” to translation services, oral interpreter services, or both.⁶⁴

Because family members of victims are often highly vulnerable to harm from traffickers, they are entitled to protection when it “may be reasonably provided.”⁶⁵ While federal regulations specifically identify spouses, children, parents, and siblings as family members entitled to protection, other extended family members may be included.⁶⁶

In an effort to decriminalize trafficking victims, the U.S. Department of Justice, in its *Attorney General Guidelines for Victim and Witness Assistance*, instructs that persons who are trafficked “should not be inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts committed as a direct result of being trafficked.”⁶⁷ As an example, the *Guidelines* provide that trafficking victims who engage in prostitution or agree to be smuggled into the United States should be treated as victims and not offenders.⁶⁸

2. Government Benefits

Because persons who have been trafficked to the United States have survived a traumatic experience and are often without resources or family support systems in this country, the Trafficking Victims Protection Act’s provision of benefits for victims is critical to their posttrafficking recovery. The Act provides that trafficking victims certified by

⁵⁸Procedures for Protecting and Providing Services to Victims of Severe Forms of Trafficking in Persons in Federal Custody, 28 C.F.R. § 1100.31(b) (2004).

⁵⁹*Id.*

⁶⁰*Id.* § 1100.31(c).

⁶¹*Id.* § 1100.31(d).

⁶²*Id.*

⁶³Access to Information and Translation Services for Victims of Severe Forms of Trafficking in Persons, 28 C.F.R. § 1100.33(a) (2004).

⁶⁴*Id.* § 1100.33(b).

⁶⁵Definitions, 28 C.F.R. § 1100.25 (2004).

⁶⁶*Id.*

⁶⁷See U.S. DEP’T OF JUSTICE, ATTORNEY GENERAL GUIDELINES FOR VICTIM AND WITNESS ASSISTANCE 6–7 (2000), available at www.ojp.usdoj.gov/ovc/publications/infores/agg2000/welcome.html.

⁶⁸*Id.*

the U.S. Department of Health and Human Services (HHS) are eligible for federal welfare benefits “to the same extent as an alien who is admitted to the United States as a refugee under [S]ection 1157 of Title 8 [Section 207 of the Immigration and Nationality Act].”⁶⁹ This provision is significant not only because refugees are one of the limited categories of immigrants eligible under the Personal Responsibility and Work Opportunity Reconciliation Act for many federal benefit programs but also because the U.S. government administers special time-limited cash and medical assistance to new refugees.

The Trafficking Victims Protection Act requires that federal agencies, including HHS, the Department of Labor, and LSC, extend benefits and services to victims of severe forms of trafficking in persons in the United States “*without regard to the immigration status of such victims*.”⁷⁰ Unlike other immigrants, including refugees, who apply for federal benefits and establish their eligibility for federal benefits with proof of immigration status, trafficked persons must present an HHS-issued document designating victim status. HHS issues adult victims’ certification letters and a similar document called an eligibility letter for child victims.⁷¹ HHS certifies an adult as a victim of a severe form of trafficking if the adult is “willing to assist in every reasonable way in the investigation and prosecution” of the trafficking crime and has either been granted continued presence status or has made a “bona fide” application for a nonimmigrant *T* visa.⁷² Based on a recommendation

from a law enforcement agency, HHS issues eligibility letters to child victims.

With the passage of the Trafficking Victims Protection Reauthorization Act, the requirement that an adult victim be willing to assist law enforcement in the investigation and prosecution of a trafficking crime in order to obtain HHS certification can be met by cooperating not only with federal law enforcement agencies but also with state and local law enforcement agencies prosecuting trafficking-related crimes such as kidnapping, rape, slavery, or other forced labor offenses.⁷³ The legislative history of the Reauthorization Act also indicates that Congress wants HHS to certify victims even if law enforcement declines to go forward with a criminal trafficking case:

[W]here Federal, State or local law enforcement authorities come into contact with a trafficking victim, but decide not to proceed with a formal investigation or prosecution even though the victim is willing to assist in every reasonable way in the investigation or prosecution, the Committee intends that the victim should be eligible to receive benefits and services if all the other requirements set forth in section 107(b)(1)(E) of the [Trafficking Victims Protection Act] are also satisfied.⁷⁴

Once a victim has an HHS certification or eligibility letter, the victim may apply immediately for time-limited refugee benefits. During the initial eight months of HHS certification, trafficking victims who

⁶⁹Trafficking Victims Protection Act § 107(b)(1)(A), 22 U.S.C. § 7105(b)(1)(A) (2000) (citing Immigration and Nationality Act § 207, 8 U.S.C. § 1157 (2000)).

⁷⁰*Id.* § 107(b)(1)(B), 22 U.S.C. § 7105(b)(1)(B) (emphasis added).

⁷¹Office of Refugee Resettlement, HHS (U.S. Department of Health and Human Services), State Letter No. 02-01: The Trafficking Victims Protection Act of 2000—Removal of Expiration Dates from Certification Letters for Adults and Eligibility Letters for Children (Jan. 4, 2002), available at www.acf.dhhs.gov/programs/orr/policy/sl02-01.htm.

⁷²Trafficking Victims Protection Act § 107(b)(1)(E), 22 U.S.C. § 7105(b)(1)(E).

⁷³Trafficking Victims Protection Reauthorization Act § 4(a)(3), Pub. L. No. 108-193, 117 Stat. 2875, 2877–78 (2003). Federal law enforcement agencies that investigate and prosecute trafficking crimes include the Federal Bureau of Investigation, the U.S. Immigration and Customs Enforcement of the Department of Homeland Security, the United States Attorney’s Office, and the Criminal Section of the Department of Justice Civil Rights Division.

⁷⁴H.R. REP. NO. 108-264(I), at 13 (2003) (discussing enhancement of protection for trafficking victims).

are not eligible for TANF or SSI may receive refugee cash assistance. Those not eligible for Medicaid or a State Children's Health Insurance Program (SCHIP) may obtain refugee medical assistance. Trafficking victims are also entitled to the same social services as refugees, including employment services, day care, transportation, and English language training. Minor victims may qualify for placement in the Unaccompanied Refugee Minor Program, which provides specialized foster care and other services for refugee and trafficked youth.⁷⁵

Trafficking victims must be referred to an appropriate social services agency as early as possible so that they receive a full range of benefits. A broad network of refugee programs throughout the United States contract with the HHS Office of Refugee Resettlement to provide services to refugees and trafficking victims. These programs typically have a wide range of language capability and decades of experience in providing resettlement benefits and services to refugees. In addition, a significant number of organizations throughout the country serve the social services needs of trafficking survivors. The federal government has funded many of these programs to provide services for victims both before and after HHS certification.

In order to support the integration of victims' family members who have been granted *T* visa status, the Trafficking Victims Protection Reauthorization Act makes them eligible for the same government benefits that it grants to vic-

tims.⁷⁶ For these purposes, family members include the spouses and children of adult victims and the spouses, children, parents, and minor siblings of minor victims.⁷⁷ If otherwise eligible, trafficking victims and their families may qualify for other federal welfare benefit programs—such as Medicaid, TANF, SSI, and SCHIP—to the same extent as refugees.⁷⁸

3. Immigration Relief

The Trafficking Victims Protection Act provides both interim and long-term immigration relief for trafficking victims who wish to remain in the United States. As with access to government benefits, if a law enforcement agency has not yet been involved in the investigation or prosecution of a trafficking crime, the victim must, at a minimum, report the crime in order to obtain immigration relief.

If a federal law enforcement agency determines that a noncitizen is a trafficking victim and a potential witness to such trafficking, the agency may apply to the U.S. Department of Homeland Security's Citizenship and Immigration Services for the victim's continued presence in the United States.⁷⁹ "Continued presence" is an interim form of immigration relief that allows the victim to live and work in the United States lawfully during the course of the trafficking investigation and prosecution. To ensure a victim's continued presence, immigration authorities assign to the victim such status as deferred action, humanitarian parole, or a stay of removal.⁸⁰

⁷⁵Trafficking Victims Protection Act § 107(b)(1)(A), 22 U.S.C. § 7105(b)(1)(A) (2000) (trafficking victims eligible for benefits and services to same extent as aliens admitted as refugees under Section 207 of the Immigration and Nationality Act, 8 U.S.C. § 1157); Refugee Cash Assistance, 45 C.F.R. § 400.45 *et seq.* (2004); Refugee Medical Assistance, 45 C.F.R. §§ 400.90 *et seq.* (2004); Child Welfare Services, 45 C.F.R. §§ 400.110 *et seq.* (2004); Office of Refugee Resettlement, HHS, *Refugee Cash Assistance*, at www.acf.dhhs.gov/programs/orr/programs/rcma.htm (last updated Mar. 29, 2002).

⁷⁶Trafficking Victims Protection Reauthorization Act §§ 4(a)(2), (b)(1), 117 Stat. at 2877, 2878; H.R. Rep. No. 108-264(I), at 13 (2003) (discussing enhancement of protection for trafficking victims).

⁷⁷Trafficking Victims Protection Reauthorization Act §§ 4(a)(2), (b)(1), 117 Stat. at 2877, 2878.

⁷⁸Trafficking Victims Protection Act § 107(b)(1), 22 U.S.C. § 7105(b)(1), *amended by* Trafficking Victims Protection Reauthorization Act § 4(a)(2), 117 Stat. at 2877.

⁷⁹Trafficking Victims Protection Act § 107(c)(3), 22 U.S.C. § 7105(c)(3). As of March 1, 2003, the services and benefit functions of the Immigration and Naturalization Service, including the adjudication of *T* visa applications, were transferred to the Citizenship and Immigration Services of the Department of Homeland Security.

⁸⁰Authority to Permit Continued Presence in the United States, 28 C.F.R. § 1100.35(b) (2004).

Those trafficking survivors who want to remain permanently in the United States can start by applying to Citizenship and Immigration Services for *T* nonimmigrant status, which allows them to live and work in the country in lawful status for three years.⁸¹ At the conclusion of the three-year period, they may apply for lawful permanent resident, or “green card,” status.⁸² The *T* visa applicant may submit “any credible evidence” to establish the elements of eligibility for *T* status.⁸³

In order to qualify for the *T* visa, victims must establish that they (1) are or have been a victim of a severe form of trafficking in persons; (2) are physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands on account of such trafficking; (3) either have complied with any reasonable request for assistance in the investigation or prosecution of the trafficking acts or are less than 18 years of age; and (4) would suffer extreme hardship involving unusual or severe harm upon removal.⁸⁴

Persons victimized in the past—as opposed to someone still in the trafficker’s control or recently freed—must establish that their “continuing presence in the United States is directly related to the original trafficking in persons.”⁸⁵ The only *T* visa filing deadlines are for cases of victimization that occurred before October 28, 2000.⁸⁶

However, these deadlines may be waived if “exceptional circumstances,” including severe physical or psychological trauma, prevented the victim from timely filing.⁸⁷

Victims who escape their traffickers before law enforcement becomes involved in the case must show that they did not have a “clear chance” to depart the United States after the escape.⁸⁸ This determination must be made in light of the applicants’ circumstances, including trauma, injury, lack of resources, or, because the traffickers seized their travel documents, lack of such documents.⁸⁹ Victims who depart and reenter the United States are considered not physically present on account of trafficking unless their reentry results from “the continued victimization of the alien or a new incident of a severe form of trafficking in persons.”⁹⁰

A law enforcement agency endorsement or a grant of continued presence constitutes primary evidence of victim status.⁹¹ The legislative history of the Trafficking Victims Protection Reauthorization Act indicates Congress’ intention that law enforcement agencies issue endorsements even if a criminal case is not initiated:

[W]here Federal, State or local law enforcement authorities come into contact with a trafficking victim, but decide not to proceed

⁸¹Alien Victims of Severe Forms of Trafficking in Persons, 8 C.F.R. § 214.11(p) (2004); Classes of Aliens Authorized to Accept Employment, 8 C.F.R. § 274a.12(a)(16) (2004).

⁸²Trafficking Victims Protection Act § 107(f) (amending Immigration and Nationality Act § 245, 8 U.S.C. § 1255 (2000)).

⁸³Alien Victims of Severe Forms of Trafficking in Persons, 8 C.F.R. § 214.11(d) (2004).

⁸⁴*Id.* § 214.11(b).

⁸⁵*Id.* § 214.11(g).

⁸⁶The application must have been filed within one year of January 31, 2002, except that a child under the age of 21 must file within one year of the child’s 21st birthday or within one year of January 31, 2002, whichever is later. *Id.* § 214.11(d)(4).

⁸⁷*Id.*

⁸⁸*Id.* § 214.11(g)(2).

⁸⁹*Id.*

⁹⁰*Id.* § 214.11(g)(3).

⁹¹*Id.* § 214.11(f)(2).

with a formal investigation or prosecution, the Committee believes that if the victim is ready to comply with a reasonable request for assistance, a law enforcement agency endorsement should be made available to facilitate the victim's application for a "T" visa.⁹²

However, federal regulations explicitly state that a law enforcement endorsement is not required to establish victim status and that secondary evidence may be submitted.⁹³

In assessing whether the victim would face extreme hardship if the visa were denied, Citizenship and Immigration Services must consider the hardship conditions associated with trafficking in addition to those traditionally recognized under the immigration laws. These include the age and personal circumstances of the applicant, the need for medical or psychological treatment in the United States, and the likelihood of revictimization in the home country.⁹⁴

The Trafficking Victims Protection Act provides special waivers for victims who face certain barriers to obtaining a visa under the immigration laws. For example, victims who have committed immigration fraud or engaged in criminal activity may qualify for waivers if the disqualifying grounds "were caused by, or were incident to, the victimization."⁹⁵ A victim who is HIV positive or

has tuberculosis may be granted a waiver if granting one is in the national interest.⁹⁶

The Trafficking Victims Protection Reauthorization Act exempts *T* visa applicants altogether from having to establish that they are not likely to become "public charges" who rely on cash welfare for support.⁹⁷ This is an important amendment to the law because some victims will have already received, or are receiving, time-limited refugee cash benefits when their application for a *T* visa is approved.

The *T* visa expires three years from the date of approval and is nonrenewable.⁹⁸ *T* visa holders who want a "green card" must file apply for adjustment of status to lawful permanent residence within the ninety days immediately preceding the third anniversary of the grant of *T* visa status.⁹⁹ The federal government will issue a separate rule pertaining to the adjustment of status process for *T* visa holders.¹⁰⁰

In order to promote family reunification, the Trafficking Victims Protection Act provides for *T* visas for the spouses and minor children of adult victims and for the spouse, parents, minor children, and minor siblings of victims who are less than 21 years old.¹⁰¹ The Reauthorization Act protects child victims and their minor siblings from "aging out" of *T* visa eligibility.¹⁰²

⁹²H.R. REP. NO. 108-264(I), at 13 (2003) (discussing enhancement of protection for trafficking victims).

⁹³8 C.F.R. § 214.11(f)(1).

⁹⁴*Id.* § 214.11(i)(1).

⁹⁵Trafficking Victims Protection Act § 107(e)(2)(B) (amending Immigration and Nationality Act § 214, 8 U.S.C. § 1184 (2000)).

⁹⁶*Id.*

⁹⁷Trafficking Victims Protection Reauthorization Act § 4(b)(4), Pub. L. No. 108-193, 117 Stat. 2875, 2879 (2003).

⁹⁸Alien Victims of Severe Forms of Trafficking in Persons, 8 C.F.R. § 214.11(p) (2004).

⁹⁹*Id.* § 214.11(p)(2).

¹⁰⁰New Classification for Victims of Severe Forms of Trafficking in Persons: Eligibility for "T" Nonimmigrant Status, 67 Fed. Reg. 4784, 4785 (Jan. 31, 2002) (to be codified at 8 C.F.R. pts. 103, 212, 214, 274a, 299).

¹⁰¹Trafficking Victims Protection Act § 107(e)(1)(C) (amending Immigration and Nationality Act § 101(a)(15), 8 U.S.C. § 1101(a)(15) (2000)).

¹⁰²Trafficking Victims Protection Reauthorization Act § 4(b)(2)(B), 117 Stat. at 2878–79.

An applicant may appeal the denial of a *T* visa.¹⁰³ The experience of legal advocates is that Citizenship and Immigration Services will not refer denied *T* visa cases to the enforcement branch for removal proceedings.

In some cases, legal advocates may appropriately consider applying for other immigration relief for a trafficking victim either in addition to the *T* visa application or as an alternative to it. Depending on the case, other relief may include asylum, special immigrant juvenile status, *U* visa status, or a self-petition under the Violence Against Women Act.

4. Representation by LSC-Funded Programs

The passage of the Trafficking Victims Protection Act, with its mandate that LSC-funded services be available to all trafficking victims, marks the first time that Congress has expanded the categories of immigrants who can be represented by LSC-funded programs with LSC funds. While LSC has not published regulations implementing the Act's legal services provision, it has issued guidance clarifying the circumstances under which LSC-funded programs may represent trafficked persons regardless of immigration status.¹⁰⁴

The Trafficking Victims Protection Act provides that LSC-funded programs may represent any trafficked person for any purpose and without regard to immigration status as long as the person (a) meets the statutory definition of "victim

of a severe form of trafficking in persons" and (b) is under the age of 18 years or is the subject of a victim certification by HHS.¹⁰⁵ The Reauthorization Act expands this new category by providing for LSC-funded representation for victims' family members.¹⁰⁶

As noted, while an LSC-funded program may represent a victim under 18 for any purpose as long as the child meets the Trafficking Victims Protection Act's definition of trafficking victim, an adult victim must be the subject of an HHS certification. LSC clarifies that LSC-funded programs may represent trafficking victims in the HHS certification process.¹⁰⁷ Because the pendency of a *T* visa application is one way to achieve HHS certification, LSC-funded programs may assist adult victims in preparing a *T* visa application. Once assistance on certification begins, the program may represent the victim for all purposes.¹⁰⁸ If the *T* visa is denied and the victim is not certified, then the LSC-funded agency must cease representation consistent with its ethical obligations.¹⁰⁹

The Trafficking Victims Protection Act allows LSC grantees to represent trafficking victims but makes no mention of their family members. While LSC grantees may file *T* visa applications for derivative family members as part of their representation of the victim, representation of the family members does not extend beyond that point.¹¹⁰ Under the Reauthorization Act, LSC grantees may continue representing victims' family members after those family members are granted *T* visas.¹¹¹

¹⁰³8 C.F.R. § 214.11(r).

¹⁰⁴LSC (Legal Services Corp.), Program Letter 2002-5, Eligibility of Immigrant Victims of Severe Forms of Trafficking for Legal Services (May 15, 2002), available at www.lsc.gov/foia/pl/02-5.htm.

¹⁰⁵Trafficking Victims Protection Act § 107(b), 22 U.S.C. § 7105 (2000).

¹⁰⁶Trafficking Victims Protection Reauthorization Act § 4(a)(2), Pub. L. No. 108-193, 117 Stat. 2875, 2877 (2003).

¹⁰⁷LSC, *supra* note 104.

¹⁰⁸Letter from Mattie C. Condray, Legal Services Corporation Senior Assistant General Counsel, to D. Michael Dale, Esq. (Aug. 2, 2002) (on file with Sheila Neville) ("[A]n LSC grantee representing a victim of trafficking may...proceed to represent that person in connection with other legal matters at the same time, without having [to] wait for HHS approval of the certification").

¹⁰⁹*Id.*

¹¹⁰Derivative applications are supplemental forms that accompany the principal applicant's visa application.

¹¹¹Trafficking Victims Protection Reauthorization Act § 4(a)(2), 117 Stat. at 2877.

IV. The Role of Legal Aid Programs

Although it has been over three years since the passage of this landmark legislation, many legal aid programs, both LSC- and non-LSC-funded, have only recently become aware of the change in the law and begun to examine how they can assist trafficking survivors and their families. The possibilities for assisting this vulnerable population range from identifying victims and securing legal and social service referrals for them to representing victims and their families in the areas of immigration, employment, and government benefits.

In 2002 HHS recognized the critical role that legal aid programs can play in fighting human trafficking by awarding a three-year grant to our LSC-funded program, the Legal Aid Foundation of Los Angeles, for a Trafficking Victims Training and Technical Assistance Project. The grant primarily targets legal aid programs for training. A separate HHS grant supported our program's successful representation of over twenty-five trafficking survivors.

Assisting in identifying victims is perhaps the most important role for legal aid programs across the country in countering human trafficking. At the time of the Trafficking Victims Protection Act's passage, some advocates were concerned that the statute's limit of 5,000 *T* visas per year for victims would be inadequate. However, the Justice Department reports that, as of June 2003, only 453 *T* visa applications had been filed in the year and a half since the government started accepting them.¹¹² With an estimated 18,000–20,000 men, women, and children being trafficked into the United States every year, victim identification is a critical issue that cannot be left solely to law enforcement agencies. Advocates in particular are concerned that smaller trafficking cases, such as those involving domestic servitude, may be missed by law enforcement.¹¹³

Legal aid programs that serve, for example, migrant farmworkers, domestic violence

victims, sexually exploited or at-risk youth, or any immigrant community, are in a unique position to raise awareness of human trafficking in their client communities and to incorporate identification methods into their client screening. Programs should collaborate with local or regional nonprofit agencies that assist survivors of human trafficking to learn how they best coordinate legal and social services for trafficking survivors. Programs that have the opportunity to train welfare, juvenile justice, or law enforcement personnel should look for ways to incorporate the subject of human trafficking.

■ ■ ■

Mali's "employment" with Kanya lasted for four long years until one woman escaped and alerted the authorities. Eventually Mali testified in the criminal prosecution of her trafficker. Kanya was convicted of involuntary servitude and was sentenced to eight years in prison. With the assistance of attorneys at Legal Aid Foundation of Los Angeles, Mali applied for the new T visa. Her T visa granted, she was issued a work permit. Mali's two children were also granted T visas and now live with their mother in Los Angeles.

Mali likely would not have been able to take these steps toward independence without the help of legal aid providers. In order to help others like Mali, legal aid providers should take time to learn about human trafficking and become familiar with the various legal tools that may be used to combat it. Although legal aid providers may not be able to eradicate human trafficking, they can significantly diminish the problem by identifying its victims and helping them take advantage of available legal protection.

Authors' Note

Legal aid programs interested in training opportunities in serving victims of human trafficking should contact Sheila Neville by e-mail (sneville@lafla.org).

¹¹²U.S. DEP'T OF JUSTICE, *supra* note 6, at 9.

¹¹³O'NEILL RICHARD, *supra* note 4, at 35.

Innovation Description

Program Name: Health Law Partnership (HeLP)

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Subject Area:

Project Title: Health Law Partnership

A. **Problem**: The social and economic conditions in which children, particularly low-income children, live can seriously affect their medical health and well-being. For example, poor housing conditions, such as the existence of unsanitary conditions, mold, or lack of heat can exacerbate health conditions like asthma and sickle cell anemia. Poverty can prevent children or their families from obtaining needed medications and other medical treatment. Lack of protection from domestic violence can result in serious injury. Failure to protect the legal rights of developmentally disabled or seriously ill children can lead to their inability to receive remedial special education or accommodations and other needed services.

B. **Innovation**: The Health Law Partnership (HeLP) is an interdisciplinary community collaboration among Children's Healthcare of Atlanta, the Atlanta Legal Aid Society, and Georgia State University's College of Law to improve the health of low-income children and their families in Georgia. HeLP's primary premise is that by combining the health care expertise of hospital professionals with the legal expertise of attorneys, we

can provide a more holistic set of services to address the multiple determinants of children's health. HeLP has developed four components:

(1) Legal Services: Poverty and illness are intertwined and both serve to diminish children's opportunities to maximize their potential. A child's hospitalization or clinic visit provides an opportunity to change the course. HeLP has on-site legal services offices at Children's hospitals (both Children's at Egleston and Children's at Scottish Rite) to address the civil legal needs affecting children's health and well-being.

Types of Cases:

- Income support, access to health care, other public benefits issues
- Private health insurance issues
- Family law
- Juvenile law
- Permanency planning
- Housing
- Education
- Employment
- Consumer

(2) Educational Programs: HeLP's educational component serves to strengthen the long-term effectiveness of the legal services component by training law and health care professionals to understand and address the social needs and legal rights of low-income children and their families. The goals of the educational component of HeLP are two-fold: (1) to increase knowledge about the legal, ethical and policy issues that affect low-income children and their families at Children's, thereby improving the ability of legal and health care professionals to provide appropriate services, and (2) to foster respect, understanding, and a cooperative spirit among the health care and legal professions. HeLP's education component has two tracks: in-service education for practicing professionals and a legal clinic for students.

In-service Education:

HeLP is developing an interdisciplinary in-service educational program about the legal, ethical, and policy issues that affect children's health and well-being. This program includes in-service training and education for

health care professionals at Children's, Children's social work staff, volunteer attorneys who work with HeLP, and medical residents and students in training at Children's. In order to increase awareness of HeLP's presence and services at Children's, presentations are made at both Egleston and Scottish Rite during grand rounds, at pediatric roundtables, during social work and nursing staff meetings, and with school nurse liaisons and hospital school teachers. HeLP will provide at least 24 in-service educational programs per year, covering topics such as, family law, housing, public benefits, and special education.

HeLP's educational component has an informal aspect as well. Physicians and social workers call HeLP regularly for immediate answers to questions on issues such as the eviction process in Georgia, divorce matters, guardianship, and denials of Medicaid applications.

Student Legal Clinic:

HeLP is developing a law clinic program in conjunction with the College of Law to provide substantive education in areas of the law affecting Children's low-income patients and their families, lawyer skills training and direct client representation. This program will provide additional case-handling personnel to HeLP's staff by using law students who will work under close attorney supervision. The clinic's participants (law and health care graduate students) will gain an understanding of the multiple determinants of children's health, experience in interdisciplinary approaches to problem-solving, and specific preparation for dealing with the health issues of low-income families they will encounter when they begin their professional practice. The goal is to transform Georgia State Law's clinical education program from an externship program (scheduled to have an enrollment of 3 law students for the Spring 2006 semester) to a full student legal clinic. The legal clinic will involve a greater number of students in a more intense educational experience by providing more direct involvement with clients under the close supervision of law school clinical faculty. A clinic requires graded performance, a weekly class presentation, and skills training.

(3) Advocacy: Through the advocacy component, HeLP strives to improve low-income children's access to health

care and the conditions that affect their health and well-being. Federal regulations require that staff employed by federally funded legal services programs, such as the Atlanta Legal Aid Society, be invited by a legislator before engaging in legislative advocacy or by government agency personnel before advocating for certain types of regulation and policy reform. Following receipt of an appropriate invitation, advocacy efforts focus on work at the legislative, policy-making, and government agency levels on issues such as Medicaid, Georgia's S-CHIP program (PeachCare for Kids), health insurance coverage issues, and other changes in law and regulations designed to improve the overall health and well-being of children.

(4) Evaluation: The research and evaluation component of HeLP exists to evaluate the quality and effectiveness of the legal service and education components. Research data that indicate the efficacy of the legal and educational services will assist with internal quality assurance and management, fundraising efforts necessary to support HeLP financially, stimulating participation in educational programs, promoting volunteer efforts among professionals in the community to support HeLP, and encouraging the referral of patients and their families to HeLP. Analysis of research data will guide future modifications and expansions. This data also will be used for external publication of program quality, efficacy, and outcomes in order to encourage the development of programs similar to HeLP in other locations throughout the State of Georgia or nationally. Institutional Review Board approval for the evaluation component of HeLP has been obtained from Georgia State University and Children's Healthcare of Atlanta.

Brief Description of the Partners:

Children's Healthcare of Atlanta – is one of the leading pediatric health care systems in the country. Children's was formed in 1998 with the merger of Egleston Children's Health Care System and Scottish Rite Children's Medical Center. Currently, Children's has 430 licensed beds in two hospitals and more than 450,000 annual patient visits. Medicaid and indigent/charity care/self-pay patients comprise nearly 48% of the total patient population. Children's provided \$73 million in unreimbursed care in 2004.

Georgia State University College of Law – was established in 1982 to provide publicly funded legal education in both part-time and full-time programs, is accredited by the American Bar Association, and is a member of the Association of American Law Schools. The College of Law houses the Center for Law, Health & Society which oversees the law school's involvement with the HeLP collaboration. The Center provides national leadership in the integration of law and ethics into health policy, research, and community service. The Center promotes interdisciplinary collaboration at Georgia State University and within the regional, national, and international communities. It is a forum for addressing pressing societal problems involving health justice and the health and welfare of individuals, families, and communities.

Atlanta Legal Aid Society, Inc. – was founded in 1924 by seventeen lawyers. Atlanta Legal Aid (ALAS) began with one lawyer providing services to the poor in Atlanta from a room in the courthouse. Today, Atlanta Legal Aid serves the five-county metropolitan Atlanta area with five fully staffed offices and one satellite office and over 64 lawyers. In 2004, ALAS handled over 22,000 cases on issues such as, domestic violence, child support, housing issues, public benefits issues, and protection from abusive loans and fraudulent sales practices. ALAS also has special programs to meet the needs of particularly vulnerable groups, such as Spanish-speaking immigrants, persons with disabilities, persons with AIDS and cancer, and the elderly.

- C. **Result:** HeLP really began over twelve years ago with conversations among Charity Scott (Professor of Law and Director of the Center for Law Health & Society at Georgia State University's College of Law), Sylvia Caley, and Steve Gottlieb (Executive Director of the Atlanta Legal Aid Society). Together, Scott and Caley conceived the proposal for a Health Law Partnership in Atlanta. HeLP formally was created by the written agreement of the partners—Children's, Atlanta Legal Aid Society, and Georgia State University College of Law—in July 2004. From inception, the partners believed that HeLP needed a critical mass of three lawyers and one paralegal. Beginning in August 2004, the College of Law supplied the funding to employ the

director/lead attorney part time. Children's has provided office space at both hospitals, phone and network services, utilities, furniture, free parking, and photocopying services. Fundraising staff employed by the individual partners collaborated to develop a detailed fundraising plan necessary to provide ongoing support for HeLP. In April 2005, HeLP received a grant sufficient to hire a paralegal/office manager and a staff attorney. These positions were filled in May 2005 and September 2005 respectively. In July 2005, three-year funding for the director was secured through the College of Law. In September 2005, additional funds were awarded to hire a second staff attorney. This new hire will begin work in January 2006. In November 2005 a large grant was awarded that, among other things, will sustain the two staff attorney and office manager positions for two years beginning July 2006. All components of HeLP became fully operational in September 2005. Between September 2004 and October 31, 2005, HeLP handled 233 cases. Since January 2005, HeLP has provided 21 formal educational presentations. To date, the substantive legal issues covered include guardianships, relative adoption, the Katie Beckett Deeming Waiver, Asthma and the Law, Medicaid Update, 2005 Legislative Issues Affecting Children, and family violence.

HeLP is becoming part of the fabric of Children's Healthcare of Atlanta. Social workers readily recognized HeLP as a resource. Physicians, nurses, hospital-employed school teachers, and other professionals regularly refer cases to HeLP.

- D. **Replication:** The collaboration among health care professionals and attorneys on behalf of low-income children and families is one of only a few such community partnerships in the nation, and the first one to be developed in the South. HeLP will serve as a model for developing similar partnerships in Georgia and the region at other hospitals and community health centers serving low-income patients and their families.

Innovation Description

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E-mail: rsalzman@wnylc.com

Program Director: Robert Salzman, Esq., Executive Director

Contact Person: Robert Salzman, Esq., Executive Director or Cindy Domingue-Hendrickson, Managing Attorney

Subject Area: Fundraising for Central Point of Intake Telephone System

Project Title: Fundraising for Central New York Justice Alliance Legal HelpLine Telephone System

- A. **Problem**: How to increase services to clients in a reconfigured 13 county service area in New York State through a central point of intake for two civil legal services programs, one LSC funded program and one non-LSC funded program, forming a Justice Alliance.
- B. **Innovation**: Fundraising for technology to establish a central point of intake and Legal HelpLine
- C. **Result**: Raised \$220,762 for technology to create single-point-of entry providing advice and counsel and brief service for two legal services programs, one LSC funded and one non-LSC funded.
- D. **Replication**: Yes, can be done.
- E. **Materials Available**:

- a. Brochure: Justice Alliance of Central New York Legal HelpLine
- b. Grant application to local foundations

Innovation Description

Program Name: New Haven Legal Assistance Association, Inc.

Address: 426 State Street New Haven CT 06510

Phone: (203) 946-4811

Fax: (203) 498-9271

Email: pkaplan@nhlegal.org

Program Director: Patricia Kaplan

Contact Person: same

Subject Area: Training and/or Pro bono

Project Title: Training for Pro Bono Attorneys

- A. **Problem:** How to prepare pro bono attorneys for the representation of low-income clients.
- B. **Innovation:** This training is designed to educate pro bono attorneys, not on substantive areas of the law, but on who our clients are, how to work with them in the most productive way and what community resources are available to help them.
- C. **Result:** Not known as yet because the training is on November 8th.
- D. **Replication:** Can easily be done anywhere.
- E. **Materials Available:** The training outline and information from the local Info Line.

CT Pro Bono Network Training – November 8, 2005

The Pro Bono Client:

Mom, victim of domestic violence, two children, boy friend moves out; her income is \$387 a week, \$1,676 a month. She has to pay rent, utilities, food, clothing, and expenses for transportation. What if she has preschool children, then also has to pay for child care and school expenses? What if she has no medical insurance, then also has to pay for doctors and medications?

Poor/low-income

Illiterate

Mentally/physically disabled

Undiagnosed and, therefore, untreated, learning disability

Attitude issues – too much or too little

Racial/ethnic/cultural issues

Unsophisticated but street wise

Vulnerable and/or frail

Elderly

Victim of abuse, past and/or present

Substance abuse – past and/or present

Outside Environment:

Inadequate educational system

State agencies

Laws/regulations/unsympathetic legislators

Convictions

Immigration issues

Lack of jobs, lack of full time hours, lack of living wage, inadequate or unaffordable or inaccessible child care, lack of transportation

Substandard housing

Poor nutrition

Limited or no access to health care

Legal Issue Identification:

Private lawyers get clients who come in with clear idea: a will, a closing, a divorce, a contract, a trust

Pro Bono clients have out of control lives, chaotic, crisis oriented

Examples: Consumer case – elderly client in debt - using credit cards to buy meds and now harassed by creditors
 Housing case – tenant being evicted for nuisance – police activity – teen son selling drugs or police called because she is being abused by boyfriend
 Housing case – tenant being evicted for having someone living there not on lease – father of child; caretaker for elderly tenant
 14 year old arrested for delinquency – undiagnosed ADD

Questions:

Single legal issue or holistic approach

How much time to spend on a case

How to control phone calls without charging

How to communicate with clients who do not have stable or consistent phone availability

How to get client to make decisions that are appropriate – range from wanting too much from lawyer who is not being paid to wanting lawyer to decide what right decision is

How to say no to a client about scope of representation or strategy of case

How to address inappropriate behavior or dress

Can you refuse to represent a client after meeting with him/her and on what grounds

How do you draw the boundaries

How to end the representation

Resources and Help: legal services attorneys in your area and segue to presenter from InfoLine